

**BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION**

In the Matter of Determining the Proper	)	DOCKET TV- 151654
Carrier Classification of, and Complaint)	
for Penalties against:	)	ORDER 02
)	
EDWARD MARTIN d/b/a MARTIN	)	INITIAL ORDER CLASSIFYING
MOVERS	)	RESPONDENT AS HOUSEHOLD
	)	GOODS CARRIER; ORDERING
	)	RESPONDENT TO CEASE &
	)	DESIST; IMPOSING AND
	)	SUSPENDING PENALTIES ON
	)	CONDITION OF FUTURE
.....	)	COMPLIANCE

BACKGROUND

1 The Washington Utilities and Transportation Commission (Commission) initiated this special proceeding to determine if Edward Martin d/b/a Martin Movers (Martin Movers or Company) has engaged, and continues to engage, in business as a common carrier for transportation of household goods for compensation within the state of Washington without possessing the permit required for such operations.

2 On September 17, 2015, the Commission entered Order 01, Order Instituting Special Proceeding; Complaint Seeking to Impose Penalties; and Notice of Mandatory Appearance at Hearing, pursuant to RCW 81.04.510, initiating this docket on its own motion. The Complaint alleges that Martin Movers violated RCW 81.80.075(1) by:

- (1) offering on at least one occasion to transport household goods within the state of Washington
- (2) advertising household goods moving services within the state of Washington on at least one occasion

without the necessary permit required for such operations. On the same date, the Commission issued a *Subpoena and Subpoena Duces Tecum For Production of Documents* (Subpoenas) to the company commanding Edward Martin to appear before the Commission at a special proceeding scheduled to convene at 9 a.m., October 15, 2015, in the Commission’s offices at 1300 S. Evergreen Park Drive S.W., Olympia, Washington, and to bring the documents specified in the Subpoenas.

3 On October 15, 2015, the hearing convened as scheduled in Olympia, Washington, before
Administrative Law Judge Rayne Pearson.

4 Commission staff (Staff) Recommended the Commission assess a \$5,000 penalty against
Martin Movers, a \$4,500 portion of which should be suspended for two years, and then
waived, provided Martin Movers ceases and desists from providing or advertising to
provide household goods moves. Staff recommended the remaining \$500 penalty should
be due and payable immediately.

5 At hearing, the Company did not contest the allegations set forth in the Complaint, but
disputed imposition of the \$500 portion of the penalty. Mr. Martin testified that he
understands the law and has shut down his business, but does not believe he should be
penalized. Mr. Martin also explained that he was unable to make a good faith payment
toward the \$500 penalty.

6 Megan Banks, Compliance Investigator, Olympia, Washington, represents Staff.¹
Edward Martin, Tacoma, WA, represents Martin Movers, *pro se*.

DISCUSSION AND DECISION

7 RCW 81.80.010(5) defines “household goods carrier” as

a person who transports for compensation, by motor vehicle within this
state, or who advertises, solicits, offers, or enters into an agreement to
transport household goods.

RCW 81.80.075 prohibits household goods carriers from operating for compensation in
Washington without first obtaining the required permit from the Commission. Upon
proof of unauthorized operations, RCW 81.04.510 authorizes the Commission to order
the unpermitted company to cease and desist its activities. Additionally, RCW 81.04.110

¹ In formal proceedings, such as this, the Commission’s regulatory staff participates like any other
party, while the Commissioners make the decision. To assure fairness, the Commissioners, the
presiding administrative law judge, and the Commissioners’ policy and accounting advisors do
not discuss the merits of the proceeding with the regulatory staff, or any other party, without
giving notice and opportunity for all parties to participate. *See* RCW 34.05.455.

authorizes the Commission to file a complaint on its own motion setting forth any act or omission by a company that violates any law, or any order or rule of the Commission.

8 RCW 81.80.075(4) subjects persons who engage in business as a household goods carrier in the state of Washington without the required permit to a penalty of up to \$5,000 for each violation. In deciding the penalty amount to be imposed per violation, RCW 81.80.075(4)(b) requires the Commission to consider two factors: (a) willingness to comply with the provisions of RCW 81.80.070 and the rules governing household goods carriers contained in WAC 480-15 and (b) compliance history.

9 At hearing, Mr. Martin agreed that he has been operating as a household goods carrier in the state of Washington without the required permit. The Company offered to transport household goods on at least one occasion and also advertised to transport household goods on at least one occasion.

10 Martin Movers also agreed to permanently shut down and cease operations as a household goods carrier, as defined by WAC 480-15, without first obtaining a permit from the Commission.

11 Under RCW 81.04.075(4), Commission Staff is authorized to seek a penalty of up to \$10,000 against the Company. Staff now seeks a lesser penalty of \$5,000 with \$4,500 suspended for two years and then waived on condition that the Company honor its pledge of future compliance by permanently staying out of the industry without first obtaining a permit from the Commission.

12 The Commission finds that the Company's currently expressed willingness to cease its unpermitted operations is a positive factor, mitigating in favor of a lowered penalty amount to be paid now. We also find that the Company's compliance history is a negative factor, making a suspended penalty appropriate as a tool to ensure Martin Movers does not re-enter the household goods moving business without first obtaining the required permit. Accordingly, we agree with Staff's recommendation and assess a \$5,000 penalty, a \$4,500 portion of which is suspended for a period of two years subject to two conditions. First, Martin Movers must refrain from operation as a household goods carrier without first obtaining a permit as required. Second, if the Company fails to pay the remaining \$500 penalty within ten days of the effective date of this Order, the \$4,500 suspended portion of the penalty will become immediately due and payable without further order by the Commission.

FINDINGS AND CONCLUSIONS

- 13 (1) The Washington Utilities and Transportation Commission is an agency of the State of Washington vested by statute with authority to regulate persons engaged in the business of transporting household goods for compensation over public roads in Washington. The Commission has jurisdiction over the subject matter of this proceeding and over Martin Movers, pursuant to RCW 81.04.510, RCW 81.80.010, and RCW 81.80.075.
- 14 (2) On at least one occasion, Martin Movers offered to transport household goods within the state of Washington without first having obtained a household goods carrier permit from the Commission, in violation of RCW 81.80.075.
- 15 (3) On at least one occasion, Martin Movers advertised to transport household goods without first having obtained a household goods carrier permit from the Commission, in violation of RCW 81.80.075.

ORDER

THE COMMISSION ORDERS:

- 16 (1) Edward Martin d/b/a Martin Movers is classified as a common carrier of household goods within the state of Washington.
- 17 (2) Edward Martin d/b/a Martin Movers is ordered to immediately cease and desist operations as a household goods carrier within the state of Washington without first obtaining a permit from the Commission.
- 18 (3) Edward Martin d/b/a Martin Movers is assessed a penalty of \$5,000. A \$4,500 portion of the penalty is suspended for a period of two years from the date of this Initial Order, and waived thereafter, provided Edward Martin refrains permanently from further operations as a household goods carrier in the state of Washington without first obtaining the required permit from the Commission.
- 19 (4) The remaining \$500 portion of the penalty is due and payable within ten days of the effective date of this Order. If Edward Martin d/b/a Martin Movers fails to pay the remaining \$500 penalty within ten days of the effective date of this Order, the

\$4,500 suspended portion of the penalty will become immediately due and payable without further order by the Commission

- 20 (4) The Commission retains jurisdiction over the subject matter and the parties to this proceeding to effectuate the terms of this Order.

DATED at Olympia, Washington, and effective October 19, 2015.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

RAYNE PEARSON
Administrative Law Judge

NOTICE TO THE PARTIES

This is an initial order. The action proposed in this initial order is not yet effective. If you disagree with this initial order and want the Commission to consider your comments, you must take specific action within the time limits outlined below. If you agree with this initial order, and you would like the Order to become final before the time limits expire, you may send a letter to the Commission, waiving your right to petition for administrative review.

WAC 480-07-825(2) provides that any party to this proceeding has twenty (20) days after the entry of this initial order to file a *Petition for Administrative Review*. Section (3) of the rule identifies what you must include in any petition as well as other requirements for a petition. WAC 480-07-825(4) states that any party may file an *Answer* to a Petition for review within (10) days after service of the petition.

WAC 480-07-830 provides that before the Commission enters a final order any party may file a petition to reopen a contested proceeding to permit receipt of evidence essential to a decision, but unavailable and not reasonably discoverable at the time of hearing, or for other good and sufficient cause. The Commission will not accept answers to a petition to reopen unless the Commission requests answers by written notice.

RCW 80.01.060(3), as amended in the 2006 legislative session, provides that an initial order will become final without further Commission action if no party seeks administrative review of the initial order and if the Commission fails to exercise administrative review on its own motion.

You must serve on each party of record one copy of any Petition or Answer filed with the commission, including proof of service as required by WAC 480-07-150(8) and (9). To file a Petition or Answer with the Commission, you must file an original and **two (2)** copies of your Petition or Answer by mail delivery to:

Attn: Steven V. King, Executive Director and Secretary
Washington Utilities and Transportation Commission
P.O. Box 47250
Olympia, Washington 98504-7250